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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,265	06/30/2005	Hans Rudolf Czerny	CZERNY ET AL.-2 (PCT)	7688

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WILLIAM COLLARD  
COLLARD & ROE, P.C.  
1077 NORTHERN BOULEVARD  
ROSLYN, NY 11576

EXAMINER

LUKS, JEREMY AUSTIN

ART UNIT	PAPER NUMBER
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2837

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,265	<b>Applicant(s)</b> CZERNY ET AL.	
	<b>Examiner</b> Jeremy Luks	<b>Art Unit</b> 2837	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/27/04</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. The Specification is objected to because it does not contain headings for each section. Below are guidelines for the preferred layout. Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

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2. The Specification is objected to due to the indefinite language in the third paragraph on page 7 and continuing to page 8. The language "wherein areas with spacers (4) of different length are formed on the molded part (1), wherein the spacers (4) in the different areas each have the same length" renders the claim indefinite because it is unclear whether the limitation(s) is claiming areas of different length, or spacers of different length, and further it is unclear if the spacers (4) in the different areas each have the same length as one another in the specific area, in all of the areas, or if all of the spacers have the same length.

### ***Claim Objections***

3. Claim 13 recites the limitation " wherein the recesses (6) have different depths **and/or** the spacers (4) have different lengths." The and/or language renders the claim indefinite because it is unclear if applicant is claiming the combination of the recesses (6) having different depths and the spacers (4) having different lengths, or the choice of the recesses (6) having different depths or the spacers (4) having different lengths. Appropriate correction is required.

4. Regarding claim 14, the limitation " wherein areas with spacers (4) of different length are formed on the molded part (1), wherein the spacers (4) in the different areas each have the same length" renders the claim indefinite because it is unclear whether the limitation(s) is claiming areas of different length, or spacers of different length, and further it is unclear if the spacers (4) in the different areas each have the same length as one another in the specific area, in all of the areas, or if all of the spacers have the same length.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-7, 9, 11-14 rejected under 35 U.S.C. 102(b) as being anticipated by Roller (6,186,270). Roller teaches a sound absorber (Figure 11) comprising a molded part (7) made of thermoplastic material (Col. 3, Lines 25-31 and 41-44) and at least one second part (1) which with the molded part (7) delimits a hollow space (4), wherein a plurality of pin-shaped or spike-shaped spacers (3b), which project into the hollow space (4) and are directed towards the second part (1) are formed on the molded part (7), wherein the molded part (7) has a plurality of recesses (4a) on the outside which each extend into a spacer (4); wherein the recesses (4a) are closed towards the hollow space (4); wherein the molded part (3b, 7) is produced by deep drawing of a thermoplastic plastic PET film (Col. 3, Lines 25-31 and 41-44); wherein the second part (1) is formed of a heavy layer (Col. 4, Lines 32-34); wherein the average outside diameter of the respective spacer (3b) is smaller than its average length; wherein the depth of the molded part (7) is greater than the respective length of the spacers (3b); wherein the spacers (3b) and the recesses (4a) are formed as non-uniformly distributed over the surface of the molded part (7); wherein the recesses (4a) have different inside diameters; wherein the recesses (4a) have different depths and the spacers (3b) have different lengths; and wherein areas of different length with spacers (3b) are formed on

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the molded part (7), wherein the spacers (3b) in the different areas each have the same length (can clearly be seen in Figure 11).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roller (6,186,270). Roller is relied upon for the reasons and disclosures set forth above.

Roller fails to teach wherein the hollow space in the area between the spacers is partially provided with acoustically effective material. However, Roller teaches that it is well known frequently used in sound absorbers to fill spaces with insulating material (Col. 2, Lines 24-26), and therefor inherently teaches wherein the hollow space (4) in the area between the spacers (3b) could be partially provided with acoustically effective material as an obvious matter of design choice.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roller (6,186,270) in view of Woodward (4,821,841). Roller is relied upon for the reasons and disclosures set forth above. Roller fails to teach wherein the outside of the molded part having the recesses lies exposed. Woodward teaches wherein the outside of the molded part (Figure 11, #2) having recesses (3) lies exposed when used in combination. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Roller, with the apparatus of Woodward to

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provide an exit and entry through the recess to create a helmholtz resonator, better attenuating sound. Further, it has been held that omission of an element and its function (i.e. Roller Figure 11, #2) in a combination where the remaining elements perform the same function as before involves only routine skill in the art. In re Karlson, 136 USPQ 184.

8. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roller (6,186,270) in view of Maeda (4,957,797). Roller is relied upon for the reasons and disclosures set forth above. Roller fails to teach wherein the molded part is formed as cassette-shaped or dish-shaped, and wherein the molded part has a circumferential fixing flange. Maeda teaches wherein a molded part (Figures 3 and 4, #6,7) is formed as dish-shaped, and wherein the molded part (6) has a circumferential fixing flange (7). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Roller, with the apparatus of Maeda to allow attachment to a vehicle, such as the roof section.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent arts of record relating to sound absorbers are disclosed in the PTO-892.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeremy Luks  
Patent Examiner  
Art Unit 2837  
Class 181



LINCOLN DONOVAN  
SUPERVISORY PATENT EXAMINER